UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:23-cy-276-MOC

TEVIN DAMATO FRIDAY,)	
Plaintiff,)	
vs.)	
BEN CARVER, et al.,)	ORDER
Defendants.)	
)	

THIS MATTER is before the Court sua sponte.

The pro se Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983 in the United States District Court for the Eastern District of North Carolina, addressing incidents that allegedly occurred at the Marion Correctional Institution. [Doc. 1]. The matter was then transferred to this Court where the Plaintiff was granted the opportunity to amend. [Docs. 11, 14]. The Plaintiff failed to do so. On April 17, 2024, the Court dismissed the Complaint on initial review and granted the Plaintiff another opportunity to amend within 30 days. [Doc. 15]. He was cautioned that, "[s]hould Plaintiff fail to timely file an Amended Complaint in accordance with this Order, this action will be dismissed without prejudice and without further notice to Plaintiff." [Id. at 7].

The Plaintiff has not amended his Complaint and the time to do so has expired. The Plaintiff appears to have abandoned this action and the Court is unable to proceed. This case will therefore be dismissed without prejudice. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although

Rule 41(b) does not expressly provide for sua sponte dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Signed: June 26, 2024

United States District Judge